

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
IP-Enabled Services)	WC Docket No. 04-36
)	
E911 Requirements for IP-Enabled)	WC Docket No. 05-196
Service Providers)	
)	

**REPLY COMMENTS OF I2 TELECOM INTERNATIONAL, INC., LIGHTYEAR
NETWORK SOLUTIONS, LLC, AND NUVIO CORPORATION**

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SUMMARY

i2 Telecom International, Inc. (“i2 Telecom”), Lightyear Network Solutions, LLC (“Lightyear”), and Nuvio Corporation (“Nuvio”) (collectively the “Joint Commenters”), submit these reply comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”) released by the Commission on June 3, 2005 in connection with its *VoIP E911 Order*.

The Commission should take notice of the problems VoIP service providers (“VSPs”) face in implementing the Commission’s E911 requirements by the November 28, 2005 deadline. Because most, if not all, VSPs are heavily reliant on third party vendors to implement and maintain VoIP E911 services, it is imperative that the Commission understand the current issues being faced by all parties, and provide flexibility so that E911 services are deployed in an effective and efficient manner. Given the reliance VSPs have necessarily placed with third party VoIP E911 vendors, the Joint Commenters request that the Commission take steps to ensure that VSPs and PSAPs are adequately covered by liability-shielding provisions similar to those available to other service providers, for the routing of VoIP 911 calls and customer information, including recommending that Congress address this important gap. Rather than add to the burdens already facing VSPs in seeking to comply with the existing rules, the Commission should consider ways to reduce these burdens without significantly impairing public safety.

The Commission should clarify several key issues including whether VSPs may comply with the *VoIP E911 Order* by contractually limiting nomadic use of their service, how the use of pANIs may affect VSP compliance when PSAPs are unable to utilize such numbering resources, and the treatment of IP-based PBX services.

Further, to avoid confusion and delay in the implementation of those emergency services, the Commission should ensure that states do not develop inconsistent VoIP E911 requirements,

and that regulation and implementation of VoIP E911 requirements remain firmly in the hands of the FCC.

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I. INTRODUCTION

i2 Telecom International, Inc. (“i2 Telecom”),¹ Lightyear Network Solutions, LLC (“Lightyear”),² and Nuvio Corporation (“Nuvio”),³ (collectively the “Joint Commenters”) submit these reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) released by the Federal Communications Commission (“Commission”) on June 3, 2005 in connection with

¹ i2 Telecom, headquartered in Atlanta, Georgia, provides international and domestic long distance calling services to subscribers using VoIP services. Specifically, i2’s VoiceStick and InternetTalker access devices enable any telephone or business phone system (PBX) to access the company’s global network and advanced routing technologies to complete the call over the Internet.

² Lightyear, headquartered in Louisville, Kentucky, provides telecommunication services and solutions to both commercial and residential customers. Lightyear is a competitively priced “one-stop shop” for numerous telecom products for both residential and business customers including: switched and dedicated access 1+ long distance, BizLocalSM phone service, Voice over Internet Protocol (“VoIP”), DSL, integrated access services, frame relay, nationwide Internet access (dial-up and dedicated access), calling cards, web page hosting and development services, call analysis software for customized billing reports, multimedia conferencing and other services.

³ Nuvio is headquartered in Overland Park, Kansas. The company develops, licenses, and markets VoIP services to businesses, education, consumer and government customers through a growing network of private-label partners. However, the largest portion of Nuvio’s current customers are business users. In addition to consumer NuvioVoice products, Nuvio also has NuvioCentrex, a complete IP-based Centrex application for businesses that replaces existing telephony infrastructure.

its *VoIP E911 Order*,⁴ and the initial comments and other relevant filings made in the above-referenced docket. The Joint Commenters appreciate the opportunity to respond to the comments filed in this proceeding, as well as to inform the Commission of several serious implementation issues faced by the Joint Commenters and other VoIP service providers (“VSPs”) as they seek to meet the FCC’s VoIP E911 mandates.

These joint comments are filed primarily to inform the Commission that the Joint Commenters, as well as most other VSPs, are heavily reliant on the efforts of third party vendors in the development and implementation of a VoIP E911 solution, to provide insight on the apparent delays and limitations associated with these vendors, and to suggest solutions that the Commission could implement to aid VSPs and their vendors in developing E911 solutions. The FCC should not expand the requirements mandated of VSPs at this time, as VSPs should be focused solely on meeting current E911 requirements until those solutions are installed and functioning in an acceptable manner. Further, the Commission should take steps to ensure that VSPs and PSAPs are adequately covered by liability-shielding provisions similar to those available to other service providers, for the routing of VoIP 911 calls and customer information, including recommending that Congress address this important gap, especially given the reliance VSPs must place with third party vendors to develop their E911 solutions.

Additionally, the Joint Commenters point out several portions of the *VoIP E911 Order* that require Commission clarification prior to the November 28, 2005 deadline. Finally, the Joint Commenters emphasize that the Commission must create a single, unified national framework to govern VoIP E911 requirements.

⁴ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, FCC 05-116 (released June 3, 2005) (“*VoIP E911 Order*”).

II. VOIP SERVICE PROVIDERS ARE HEAVILY RELIANT ON THE EFFORTS OF THIRD PARTIES TO IMPLEMENT AN E911 SOLUTION

The Joint Commenters have expressed concerns in *ex parte* Commission meetings and other filings over the Commission's November 28, 2005 deadline to have an E911 solution in place.⁵ Similar to many, if not all, other VSPs, the Joint Commenters are heavily reliant on the efforts of several third parties to implement the Commission's November 28, 2005 E911 requirements. To this end, the Joint Commenters have individually contacted several vendors, to determine when a solution may be in place for VSPs to provision an E911 service to their customer base. Based on these conversations, it is clear that all VSPs will face numerous and substantial obstacles in meeting the Commission's November 28, 2005 deadline. Joint Commenters respectfully request the Commission take several actions to facilitate VSP compliance, including allowing 10-digit 911 call routing, requiring RBOCs to provide access to necessary 911 facilities, provide that MSAG databases be made publicly available, and install an interim numbering administrator specifically tasked to aid in the distribution and use of pANI resources if there is to be any chance of meeting the November 28, 2005 deadline.

Vendors of VoIP E911 solutions have become overwhelmed with requests and have been non-responsive to many VSPs. No vendor is offering a nationwide solution. However, in the conversations the Joint Commenters have had with various vendors, several key issues have become clear:

- 1) No vendor will contractually commit to having their proposed solution in place by November 28, 2005;
- 2) Top vendors are promising a solution for no more than the top 30 major metropolitan areas by November 28, 2005; and

⁵ See, e.g., *Ex Parte* Letter from Ronald W. Del Sesto, Jr., Counsel for Nuvio Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission, WC Docket Nos. 04-36, 05-196, 04-29, and 04-440 (filed July 12, 2005); see also *Ex Parte* Letter from Ronald W. Del Sesto, Jr., Counsel for Nuvio Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission, WC Docket Nos. 04-36 and 05-196 (filed July 27, 2005).

- 3) Much of the country will remain without a VoIP E911 solution even after November 28, 2005.

Of course, even if (a non-contractually committed) vendor is able to provide an E911 solution, and makes it commercially available to the Joint Commenters and other VSPs by November 28, 2005, these “major-market” solutions would fall far short of the ubiquitous coverage obligations imposed in the *VoIP E911 Order*. The Joint Commenters are especially concerned about the impact of the *VoIP E911 Order* in rural areas.⁶ As many of the gaps associated with a VoIP E911 solution are in rural areas, customers that would otherwise use the Joint Commenters’ VoIP services and rely on it as their primary voice communications service may find themselves in a precarious position as the November 28, 2005 deadline approaches. The Commission must take additional steps to ensure that these rural customers are not left short as the November 28, 2005 deadline approaches.

In comments submitted by Intrado, that company notes that:

Intrado shares the Commission’s view that the current use of 10-digit, 24x7 emergency numbers at the Public Safety Answering Point should not be the primary solution for VoIP/E911. However, even with the schedule the Commission has put forth, large parts of the country will continue to be dependent on this solution until native delivery of E911 calling can be implemented, including those areas served by PSAPs not connected to a selective router. It is critical, therefore, that the Commission permits use of a 10-digit solution in the interim and articulate reasonable expectations for migrating from the interim solution to a native one. With a commitment from the VSP to move to native delivery of E911 calls, PSAPs should be encouraged to take calls on 10-digit emergency lines until a native solution is deployed.⁷

⁶ As noted above, Nuvio is based in Overland Park, Kansas, and provides service to customers that live in and commute from rural areas.

⁷ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, Initial Comments of Intrado, Inc., WC Docket Nos. 04-36 & 05-196, at 3 (filed Aug. 15, 2005) (“*Initial Comments of Intrado, Inc.*”). For purposes of clarity, initial comments referenced herein will be cited in short form, but shall hereby refer the dockets and filing date as listed above.

The Joint Commenters share this assessment. The *VoIP E911 Order* is ambiguous as to whether a 10-digit solution is allowed in those circumstances where the 10-digit solution sends the call to the dedicated E911 trunk and not a PSAP administrative line. The Commission should allow such an interim solution so that vendors can expand the footprint for VoIP E911 offerings as quickly as possible. It is imperative for the Commission to clarify this aspect of the Order as soon as possible so VSPs can enter into contracts with third party providers with the knowledge that the solution being offered is in conformity with the Commission's rules.

Allowing VSPs to route 911 calls to a 10-digit number attached to a dedicated trunk would in no way diminish E911 capabilities, nor would it jeopardize public safety. On the other hand, it will allow vendors and providers to significantly expand their E911 coverage capabilities in a cost-effective and efficient manner. Establishing dedicated lines to over 6,000 PSAPs by November 28, 2005 is virtually impossible. However, allowing a solution that relies on 10-digit dialing would greatly expand the number of markets in which vendors could offer VoIP E911 solutions. This would also provide access to E911 connectivity in a cost efficient manner. However, given the deadline for full implementation is only weeks away, the Commission must act quickly to clarify that this sort of interim E911 solution is acceptable.

Third party vendors, and therefore the Joint Commenters, are also reliant on other entities in establishing VoIP E911 services. Vendors are especially reliant on the RBOCs, as well as PSAPs to establish and maintain the connections and facilities needed to provide interconnected VSPs the E911 connectivity needed to supply E911 services to end users. Because of this significant reliance, as well as the fact that the RBOCs are largely in control of the facilities required by VSPs to establish E911 service, the Joint Commenters agree with the comments filed

by Telecommunications Systems⁸—the Commission must make clear that RBOCs have an obligation to provide open access to selective routers (“SRs”). The Joint Commenters also agree with commenters such as the Global IP Alliance, which noted,

Access to essential databases needed for routing emergency calls should be available on a nondiscriminatory basis to all legitimate users, at non discriminatory terms and pricing. Access to such essential databases must not be used to delay entry of VoIP competitors to traditional voice service providers.⁹

Finally, the Joint Commenters respectfully request that the Commission, as soon as possible, appoint an Interim 911 Routing Numbering Administrator (“Interim RNA”) to administer pANI resources. As the Commission is aware, pANIs are currently used by CMRS and VSPs in the provision of E911 services. Access to pANI resources, however, must be centrally coordinated, and VSPs and their vendors must be granted access to these resources in order to offer a robust and ubiquitous E911 solution. In many areas, there is no entity acting as a pANI administrator. Therefore, the Commission must select an Interim RNA as soon as possible to coordinate these efforts, and provide VSPs and third parties access to the numbering resources required for the provision of E911 service for nomadic and mobile VoIP services. The Interim RNA would serve as an interim administrator until the industry and the Commission establish permanent guidelines and rules that establish how, and under what circumstances, VSPs or their vendors can obtain numbering resources including pANIs.

Further, the Commission’s E911 rules, as currently written, do not provide liability protections to PSAPs or VSPs, similar to those afforded to CMRS providers and traditional

⁸ *Comments of Telecommunications Systems, Inc.*, at 4-5 (“The network should be neutral with regard to interconnection and the type of technology used to provide VoIP E911. IVSPs and CLECs must be able to access the ILEC infrastructure that supports PSAPs in a manner that permits the free selection of VoIP E911 technical solutions.”).

⁹ *Comments of the Global IP Alliance and Professor Henning Schulzrinne*, at 4.

telecommunications carriers under federal and state laws. Given the significant reliance that most, if not all VSPs must place with their E911 vendors, this is a significant oversight that should be addressed by the Commission. The Commission should take whatever steps are possible to ensure that VSPs and PSAPs are adequately covered by liability-shielding provisions similar to those available to other service providers, for the routing of VoIP 911 calls and customer information. Such provisions are especially needed given the amount of work third parties (including RBOCs, CLECs, and third party vendors) must perform in the provision of VoIP E911 service nationwide. Should the Commission determine that it lacks the jurisdiction to provide liability protection to VSPs and PSAPs, the Commission must immediately recommend that Congress address this important gap. There is no reason why VSPs and PSAPs that handle calls placed from VSP customers should not have the same liability protection as wireline and wireless providers.

III. THE FCC SHOULD NOT MANDATE ANY ADDITIONAL OBLIGATIONS ON VSPS AT THIS TIME

The Joint Commenters agree with those numerous initial commenters that stated VSPs should not be subject to additional E911 obligations at this time.¹⁰ Stringent requirements for location validation or database updates are unnecessary, and will likely be unworkable given the reliance of VSPs on third party vendors to update this information. Further, the Commission should address disability issues in a comprehensive manner, not in the limited scope of the instant proceeding.

¹⁰ *Comments of AT&T Corp.*, at 8-10; *Joint Comments of Center for Democracy & Technology, et al.*, at 11-12; *Comments of GlowPoint, Inc.*, at 1; *Comments of the Information Technology Industry Council*, at 3-4; *Comments of SBC Communications Inc.*, at 3-4; *Comments of Skype Communications, SA*, at 5; *Comments of Time Warner, Inc.*, at 7; *Comments of United Online, Inc.*, at 4-6 *Comments of the United States Telecom Association*, at 2; *Verizon Comments*, at 2-3; *Comments of the Voice on the Net Coalition*, at 5-8.

As the FCC has recognized, implementing a VoIP E911 solution by November 28, 2005, is an extremely aggressive timeframe.¹¹ All resources and efforts of VSPs, PSAPs, other public safety organizations and vendors need to be focused on that goal at this time. The Commission's current regulations provide a solid foundation for the implementation of VoIP E911 services. The Joint Commenters, as well as other VSPs, have expended significant time and resources working to establish an E911 solution for their customers. As the Commission is aware, however, the actual deployment of a ubiquitous E911 system is an extremely difficult mission. Until this first major undertaking is completed, and operating in an acceptable manner, the Commission should forgo imposing any additional E911 requirements on VSPs. Doing otherwise may result in an ineffective direction of resources which will impact the ability for VSPs to supply the most basic E911 services required: routing, ANI, and registered location information.

A number of parties have argued that the Commission should expand the requirements of the *VoIP E911 Order* to mandate that VSPs provide MSAG-validated location information.¹² These databases, however, are not generally publicly available. To maintain national location information consistency, MSAG databases must be made available to VSPs and their vendors, especially if the Commission determines, at some future time, that all registered location information provided to PSAPs must be MSAG-validated. Failure to guarantee VSPs access to the databases and facilities required to provision E911 service simply makes compliance with the Commission's VoIP E911 rules impossible. Requiring access to this infrastructure will provide immediate and significant assistance to those VSPs striving to meet the Commission's E911 requirements. Until this access is available, any additional validation requirements would simply

¹¹ See *Order*, ¶ 37.

¹² See *Initial Comments of Intrado, Inc.*, at 1-2; *Comments of the Texas 9-1-1 Alliance*, at 6.

make it even more difficult and impracticable than it already is for VSPs to meet the November 28 deadline.

Further, the Commission should not adopt any stringent guidelines for when registered location information must be updated by VSPs. As noted by BellSouth, “[e]nd users should be advised by their service provider of the time that it takes to make a change in registered location effective and the impact that making a change has on 911 capabilities.”¹³ Stringent guidelines or requirements are not necessary. As with other areas of E911 implementation, many VSPs must rely on third party vendors to update relevant databases. Based on conversations with these vendors, the Joint Commenters note that database updates may take several days, and VSPs will be charged per update. As such, the Joint Commenters agree with Qwest’s assessment that the Commission should track and assess the movement to NENA’s i2 solution before mandating timelines for registry updates.¹⁴

Additionally, the Joint Commenters agree with those commenters noting that the Commission should not address disability access in the narrow scope of the instant proceeding.¹⁵ To date, the record developed in this proceeding is narrowly limited to E911 implementation. However, the public policy goals, and corresponding laws and regulations involving access for persons with disabilities are broad in scope. Disability access issues will arise with the advent of any new communications technology. As such, the Commission should consider developing a

¹³ See, e.g., *BellSouth Comments*, at 7.

¹⁴ *Comments of Qwest Communications Corporation*, at 9; *Comments of RNK, Inc., D/B/A RNK Telecom*, at 10-11; *Comments of SBC Communications Inc.*, at 10-11; *Comments of United Online, Inc.*, at 11-16; *Comments of the United States Telecom Association*, at 7; *Verizon Comments*, at 4-5; *Comments of Vonage America Inc.*, at 4-5.

¹⁵ *Comments of AT&T Corp.*, at 13-14; *Comments of NENA*, at 16; *Comments of SBC Communications Inc.*, at 13-14; *Comments of the United States Telecom Association*, at 9; *Comments of the Voice on the Net Coalition*, at 20.

full and wide-ranging record on this issue, preferably in the IP-Enabled Services docket or another proceeding aimed at addressing broad public policy goals.

IP technology will undoubtedly enhance communications access for persons with disabilities. IP-based communications provide better access to voice, data, and video transmission services, which will only serve to enhance the communications possibilities of all Americans, including those with disabilities. However, regulation and implementation of public policy on these broad issues cannot be addressed in the context of this narrow rulemaking proceeding. These broad issues concern the general provision of VoIP services, and as such, should be addressed in a more comprehensive manner. The Joint Commenters agree with those commenters advocating that the Commission should address these issues in a broader proceeding, such as the IP Enabled Services docket,¹⁶ or through a separate task force.¹⁷ The Commission should address this issue comprehensively.

IV. THE FCC SHOULD NOT EXPAND THE VOIP E911 ORDER TO INCLUDE SERVICES OTHER THAN THOSE COVERED BY THE DEFINITION OF AN “INTERCONNECTED VOIP SERVICE”

Numerous commenters agreed that the Commission should impose E911 requirements only in those situations where a consumer has a “reasonable expectation” that E911 service would be available through the service or device.¹⁸ The Commission must analyze each service on a case-by-case basis. Many new communications technologies are emerging, and the public has differing expectations over the relative capabilities of those services.

¹⁶ See *Comments of SBC Communications Inc.*, at 13-14; *Comments of the United States Telecom Association*, at 9.

¹⁷ See *Comments of AT&T Corp.*, at 13-14.

¹⁸ See, e.g., *Comments of AT&T Corp.*, at 8-10; *BellSouth Comments*, at 7; *Comments of GlowPoint, Inc.*, at 1; *Comments of Qwest Communications Corporation*, at 3-4; *Comments of Skype Communications, SA*, at 5.

The Joint Commenters maintain that “softphones” are an important example of an application that does not fall within the Commission’s “reasonable expectation” test of a service that should be E911 capable. As discussed by Time Warner in their initial comments, softphones are simply computer programs that allow users to place calls.¹⁹ Most of these programs are installed on portable laptop computers, and therefore allow users to place calls from numerous locations. Beyond the fact that updating registered location information for these users as they travel would be highly inefficient and costly, the information provided by softphone users would be much more likely to be inaccurate than that information provided by traditional “fixed” VoIP users. Such inaccurate information (or failure by a customer to update their information while traveling with such portable devices) is likely to lead to misdirected calls. The Commission should clarify that the current VoIP E911 rules do not apply to such software. Consumers do not have a reasonable expectation that these software programs will offer 911 connectivity, and PSAPs and VSPs would be largely unable to verify new locations and update the relevant databases quickly enough to ensure that these mobile devices would retain seamless 911 or E911 connectivity at all times. Given the fact that softphones and other IP-enabled devices remain in their infancy, the Commission should generally avoid adopting any regulations that would stifle the development of new technologies unless it is absolutely necessary.

V. SEVERAL AREAS OF THE VOIP E911 ORDER REQUIRE CLARIFICATION

There are several important areas of the Commission’s *VoIP E911 Order* that require additional clarification. These issues include whether VSPs may contractually limit customers from moving their VoIP service to a new location, and whether that contractual limitation will ensure that those VSPs need not supply E911 connectivity to areas outside their contractual “hot-

¹⁹ See *Comments of Time Warner, Inc.*, at 8-9.

spots.” Also, VSPs require clarification on the use of pANI resources, as well as how communications within enterprise environments should be addressed.

First, the FCC should specifically allow VSPs to include contractual terms disallowing VoIP customers from moving their VoIP service, and clarify that such VSPs are not required to provide consumers with a way to change or update their registered location, or to provide E911 connectivity to any PSAP other than the one serving the registered location specified by the contract. This is especially important to providers that operate in enterprise environments, where customers are already unlikely to move their VoIP services. The Commission should allow VSPs the certainty of knowing which geographic locations they wish to serve, and not force all providers to provide E911 coverage to all portions of the country at a moment’s notice. Allowing VSPs to clearly and concisely inform their customers that they are contractually disallowed to use their VoIP service in a nomadic manner, or in limited service areas, and to inform customers that access to emergency services may not be available should they violate that agreement will reach a reasonable balance between consumer safety and provider responsibility.

Additionally, clarification is needed on issues involving the use of pANIs. In the limited cases where an emergency call is being delivered using a non-native telephone number, certain PSAPs may not be able to receive the ALI because they do not have access to a dynamic data update capability necessary to process a dynamic pANI. For these cases, the Joint Commenters respectfully request that the FCC clarify that routing calls from nonnative telephone numbers to the appropriate PSAP meets the VSP’s obligation where the PSAP is not yet capable of processing the dynamic data necessary for delivering E911 callback number and registered location information.

Finally, and equally as important, the FCC must establish parity between what is required from VSPs in a private branch exchange (“PBX”) environment and PBX services offered through “traditional” telephony. Nuvio has brought this issue to the Commission’s attention in the past.²⁰ As currently written, the *VoIP E911 Order* subjects VSPs offering IP-based PBX systems to a higher standard than that applied to telecommunications carriers serving non-IP PBX systems. Accordingly, clarification by the FCC is needed well before November 28, 2005. The Commission should not treat PBX systems differently based simply on the method by which they route their communications. “Traditional” PBX systems are not currently obligated (at the federal level) to provide E911 services. This regulatory discrepancy provides traditional providers of telecommunications services an unfair advantage in the PBX marketplace. It is patently unfair to require IP-based PBX operators to adhere to a higher standard, given the short time-frame and the technical challenges associated with conforming with the *VoIP E911 Order*.

VI. THE FCC SHOULD ESTABLISH A NATIONAL VOIP E911 FRAMEWORK

In the *VoIP E911 Order*, the Commission requested comment what role state and local authorities should play in the implementation of VoIP E911 service requirements.²¹ The Joint Commenters agree with those commenters, such as the New York State Department of Public Service, who suggest that local PSAPs may aid service providers implement the technical requirements of the Commission’s VoIP E911 mandates.²² However, although states may be well suited to help with local implementation problems, inconsistent state technical standards for the deployment of VoIP E911 services will only serve to slow implementation efforts and raise

²⁰ See *Ex Parte* Letter from Ronald W. Del Sesto, Jr., Counsel for Nuvio Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission, WC Docket Nos. 04-36 and 05-196 (filed July 27, 2005).

²¹ See *NPRM*, ¶ 61.

²² See, e.g., *Comments of the New York State Department of Public Service*, at 1-2.

costs for service providers and consumers. While state and local governments have an important role to play, the Commission should ensure that these governments do not establish inconsistent VoIP E911 requirements, issue technical mandates, or otherwise create inconsistent requirements that will only serve to delay nationwide VoIP E911 rollout.

State and local involvement in the implementation of VoIP E911 services is essential. Like all other calls to a 911 service center, local police, fire departments, ambulance services, or other local responders will be summoned, and as such, coordination with PSAPs, local governments, and state agencies will be required to seamlessly provide E911 services to VoIP customers. However, the Joint Commenters urge the Commission to continue to follow the path it has begun in this respect: a national framework that applies to all PSAPs and states is needed. Too many states have already implemented inconsistent VoIP-specific legislation and regulations aimed at fee collection, call routing, and other service issues.²³ The Joint Commenters agree with those commenters, including BellSouth, Intrado, SBC and the United States Telecom Association, that a national framework is needed to provide all interested parties consistency across regional and local political boundaries.²⁴

²³ For example, Nuvio filed two *ex parte* letters with the Commission on April 26, 2005 and May 6, 2005, citing VoIP-specific legislation in Kansas. State-based efforts such as these will only complicate the nationwide deployment of VoIP E911 services to consumers. *See Ex Parte* Letter from William B. Wilhelm, Jr. and Ronald W. Del Sesto, Jr., Counsel for Nuvio Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission, WC Docket No. 04-36 (filed Apr. 26, 2005); *Ex Parte* Letter from Ronald W. Del Sesto, Jr., Counsel for Nuvio Corporation, to Marlene H. Dortch, Secretary of the Federal Communications Commission, WC Docket No. 04-36 (filed May 6, 2005).

²⁴ *See, e.g., BellSouth Comments*, at 9 (“the Commission must assume the primary responsibility for seeing that its regulations are implemented. The states should focus on funding.”); *Initial Comments of Intrado, Inc.*, at 4 (“it is critical that state and local governments refrain from imposing additional implementation rules and regulations that are not in the interest of VoIP service customers simply because “they have always done it that way” for wireless 911/E911.”); *Comments of SBC Communications Inc.*, at 15 (“[a]llowing a patchwork quilt of inconsistent VoIP 911 requirements to unfold at the state or local level would not only impose unnecessary compliance burdens and costs on VoIP providers, but would also slow the deployment of VoIP services to consumers across the nation.”); *Comments of the United States Telecom Association*, at 9 (“USTelecom sees a need for uniform national standards for E911

[I]t would be inappropriate for any one community to hold VSPs to a higher standard than other communities across the country. Traffic capacity and network design and configuration requirements should be left to standards development organizations having expertise in the efficient and effective design of networks. Such an approach will promote the availability of high quality, reliable access to emergency services with universal network parity across the nation.²⁵

To the extent possible, the Commission should establish a singular set of requirements, technical guidance on how those requirements should be met and which entities those requirements should apply too, and a singular cost recovery/VoIP 911 fee mechanism to avoid inconsistent state and local fee collection requirements. While several (state commission) commenters note that states should retain primary responsibility in regulating and implementing VoIP E911 requirements, the Joint Commenters believe that state-based regulation will not serve the public interest. Due to the aggressive timeframe for VoIP E911 implementation, it is simply impractical for localities to impose additional or inconsistent obligations on VSPs.

Further, the Commission has taken a national approach with respect to certain 911 requirements in the past. CMRS providers, for example, are governed by Commission rules and guidelines covering ALI, ANI, and other 911-related requirements.²⁶ Given the inherently interstate nature of VoIP services, the Commission must take a similar position with respect to VoIP E911. In the *Vonage Order*,²⁷ the Commission acknowledged that Vonage's VoIP service was an *interstate* service, and as such should be federally regulated. The Commission preempted the Minnesota PUC from applying certain state-specific regulations on Vonage's VoIP service.

deployment because companies and services are intrinsically national in scope. Applying different solutions in different states is burdensome and expensive for communications providers.”).

²⁵ *Initial Comments of Intrado, Inc.*, at 4.

²⁶ See 47 C.F.R. § 20.18.

²⁷ See *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, WC Docket No. 03-211, Memorandum Opinion and Order (rel. Nov. 12, 2004) (“*Vonage Order*”).

The Commission noted, in the *Vonage Order*, that “to the extent that other VoIP services are not the same as Vonage’s but share similar basic characteristics, we believe it highly unlikely that the Commission would fail to preempt state regulation of those services to the same extent.”²⁸ Providing a national framework to govern the regulation, implementation, and enforcement of VoIP E911 services is consistent with that decision.

While federal oversight and a singular national framework are necessary in the efficient implementation of VoIP E911 services, the Joint Petitioners acknowledge that all interested parties, including PSAPs and state and local governments, should be involved in the development of national standards. VSPs and PSAPs require consistency, and the only way to do so is for the Commission to retain its lead in this area. Departure from national standards should only occur where the specifics of a particular locality demand deviation. Otherwise, PSAPs and VSPs should work together under a unified framework, which will avoid confusion and delay, and speed the ultimate implementation of ubiquitous E911 services to VoIP customers.

VII. CONCLUSION

The Joint Commenters submit these reply comments to inform the Commission of the problems being faced by VSPs in the implementation of E911 service by the Commission’s November 28, 2005 deadline. As VSPs are heavily reliant on third party vendors to implement and maintain VoIP E911 services, it is incumbent that the Commission understand the current issues being faced by all parties.

The Joint Commenters respectfully request Commission clarification on several key issues including whether VSPs may comply with the *VoIP E911 Order* by contractually limiting customers from using their service on a nomadic basis and allowing for service area restrictions,

²⁸ See *Vonage Order* ¶1.

how the use of pANIs may affect VSP compliance when PSAPs are unable to utilize such numbering resources for nomadic VoIP services but not for fixed, and the treatment of IP-based PBX services. The Commission should also take steps to ensure that VSPs and PSAPs are adequately covered by liability-shielding provisions similar to those available to other service providers, for the routing of VoIP 911 calls and customer information, including recommending that Congress address this important gap.

Further, to avoid confusion and delay in the implementation of those emergency services, the Commission must ensure that states do not develop inconsistent VoIP E911 requirements, and that the regulation and implementation of VoIP E911 requirements remain firmly in the hands of the FCC. Finally, given the complexity and difficulty in creating VoIP E911 services, the Joint Commenters respectfully request that the Commission refrain from imposing any additional E911 obligations on interconnected VSPs at this time.

Respectfully submitted,

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